

# Political Activities of Public Entities

Title 20A, Chapter 11, Part 12  
(Text is current through the 2006 General Session)

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## **20A-11-1201. Title.**

This part is known as the "Political Activities of Public Entities Act."

## **20A-11-1202. Definitions.**

As used in this chapter:

- (1) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond approvals, or other questions submitted to the voters for their approval or rejection.
- (2)
  - (a) "Commercial interlocal cooperation agency" means an interlocal cooperation agency that receives its revenues from conduct of its commercial operations.
  - (b) "Commercial interlocal cooperation agency" does not mean an interlocal cooperation agency that receives some or all of its revenues from:
    - (i) government appropriations;
    - (ii) taxes;
    - (iii) government fees imposed for regulatory or revenue raising purposes; or
    - (iv) interest earned on public funds or other returns on investment of public funds.
- (3) "Expenditure" means:
  - (a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;
  - (b) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;
  - (c) a transfer of funds between a public entity and a candidate's personal campaign committee;
  - (d) a transfer of funds between a public entity and a political issues committee; or

- (e) goods or services provided to or for the benefit of a candidate, a candidate's personal campaign committee, or a political issues committee for political purposes at less than fair market value.
- (4) "Governmental interlocal cooperation agency" means an interlocal cooperation agency that receives some or all of its revenues from:
  - (a) government appropriations;
  - (b) taxes;
  - (c) government fees imposed for regulatory or revenue raising purposes; or
  - (d) interest earned on public funds or other returns on investment of public funds.
- (5) (a) "Influence" means to campaign or advocate for or against a ballot proposition.  
(b) "Influence" does not mean providing a brief statement about a public entity's position on a ballot proposition and the reason for that position.
- (6) "Interlocal cooperation agency" means an entity created by interlocal agreement under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.
- (7) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, that solicits or receives contributions from any other person, group, or entity and makes expenditures from these contributions to influence, or to intend to influence, directly or indirectly, any person to assist in placing a ballot proposition on the ballot, to assist in keeping a ballot proposition off the ballot, or to refrain from voting or to vote for or to vote against any ballot proposition.  
(b) "Political issues committee" does not mean an entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public.
- (8) "Political purposes" means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate for public office at any caucus, political convention, primary, or election.
- (9) (a) "Public entity" includes the state, each state agency, each county, municipality, school district, special district, governmental interlocal cooperation agency, and each administrative subunit of each of them.  
(b) "Public entity" does not include a commercial interlocal cooperation agency.  
(c) "Public entity" includes local health departments created under Title 26, Chapter 1, Local Health Departments.
- (10) (a) "Public funds" means any monies received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.  
(b) "Public funds" does not include monies donated to a public entity by a person or entity.

- (11) (a) "Public official" means an elected or appointed member of government with authority to make or determine public policy.
- (b) "Public official" includes the person or group that:
  - (i) has supervisory authority over the personnel and affairs of a public entity; and
  - (ii) approves the expenditure of funds for the public entity.
- (12) "Special district" means each entity created under the authority of Title 17A, Special Districts.
- (13) (a) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.
- (b) "State agency" includes the legislative branch, the Board of Regents, the institutional councils of each higher education institution, and each higher education institution.

**20A-11-1203. Public entity prohibited from expending public funds on certain electoral matters.**

- (1) Unless specifically required by law, a public entity may not make expenditures from public funds for political purposes or to influence a ballot proposition.
- (2) Nothing in this chapter prohibits a public official from speaking, campaigning, contributing personal monies, or otherwise exercising the public official's individual First Amendment rights for political purposes.
- (3) Nothing in this chapter prohibits a public entity from providing factual information about a ballot proposition to the public, so long as the information grants equal access to both the opponents and proponents of the ballot proposition.
- (4) Nothing in this chapter prohibits a public entity from the neutral encouragement of voters to vote.
- (5) Nothing in this chapter prohibits a public entity from preparing information analyzing the pros and cons of a ballot proposition when requested to do so by the public entity's governing body.
- (6) Nothing in this chapter prohibits an elected official from campaigning or advocating for or against a ballot proposition.
- (7) A violation of this section does not invalidate an otherwise valid election.

**20A-11-1204. Criminal penalty.**

Each public official who violates this part is guilty of a class B misdemeanor.